

E-FILED on 8/1/06

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ISMART INTERNATIONAL LIMITED,

Plaintiff,

v.

I-DOCSECURE, LLC, a California Limited Liability Company; E-NETSECURE SERVICES, INC., a California Corporation; INTEGRITY DATA APPLICATIONS CONSULTING, LLC, a California Limited Liability Company; ISMART SECURE, LLC, a Delaware Limited Liability Company; JOSEPH BAGGIO, an individual; JONATHAN BALZORA, an individual,

Defendants.

No. C 04-03114 RMW

INTERIM ORDER REGARDING
PLAINTIFF'S MOTION TO DISQUALIFY

[Re Docket Nos. 221, 238, 246]

Plaintiff iSmart International, Ltd. ("iSmart") moves to disqualify attorneys from the law firm of Paul, Hastings, Janofsky & Walker LLP as counsel for certain defendants: I-Docsecure LLC; E-Netsecure Services, Inc.; iSmart Secure LLC; and Joseph Baggio ("defendants," for the purposes of this order). As noted at the hearing on the motion, the evidence presented on the matter so far is limited. While the burden of proof on this motion is iSmart's, a denial of the motion will not necessarily allow attorneys from Paul Hastings to continue representing the defendants should future developments reveal a conflict. The court would prefer to have all the available information before

1 it and avoid having to revisit the issue later. It is therefore strongly suggested that the parties
2 perform additional investigation and be specific about the relationships among the parties.¹

3 The involved parties are therefore directed to file declarations supporting factual positions
4 advanced at the hearing that are not specifically covered by an existing declaration (if covered by
5 existing declaration point out the declarant and relevant page and line). The parties should address
6 in particular the following matters:

- 7 • the ownership of iSmart, Zoom Developers, Zoom Enterprises, and the Zoom Group² (in
8 more detail than merely stating the same group of "promoters" owns each entity);
- 9 • the directors and principal officers of iSmart, Zoom Developers, Zoom Enterprises, and the
10 Zoom Group;
- 11 • R. K. Bhuta's title and duties, if any, at iSmart and each of the other parties in the case;³
- 12 • the operational relationship between iSmart, Zoom Developers, Zoom Enterprises, and the
13 Zoom Group;
- 14 • any documentary evidence that would support claims of whether or when Blumenfeld's
15 representation of Zoom Developers ended, or would shed light on Blumenfeld's "business
16 development activity" related to Zoom Developers, or would substantiate claims that Bhuta
17 is working on getting "phase II" approval from the Chinese government for the Shanghai
18 transaction;
- 19 • whether a judgment against iSmart here would be collectible from Zoom Developers; and
- 20 • which entity or entities defendants were referring to when they requested iSmart produce
21 documents relating to "ZOOM'S profits after tax of \$7.08 million," "ZOOM'S gross

22
23 ¹ For example, although not among the excerpts from Zoom Developers' website submitted by
24 defendants, the "Management" section of Zoom Developers' website lists its board of directors as
25 "Vijay Choudhary," "B.L. Kejriwal," "D. N. Bakhai," "Yashpal Sahni," and "Pradeep Saxena." See
26 <http://zoomdevelopers.com/management.htm>. Some of these individuals are also on iSmart's
board. See Coddon Decl., Ex. B. This suggests there may be other information available germane
to the resolution of iSmart's motion that has not been presented to the court.

27 ² Statements made at the hearing suggested that Zoom Enterprises is another name for the Zoom
Group. The parties should clarify whether this is accurate.

28 ³ According Bhuta's declaration, he is "the Vice President of Project Finance for Zoom Developers
Pvt Ltd India." Bhuta Decl. ¶ 1.

1 income of \$37.27 million," and "ZOOM'S net worth of \$36.90 million," *see* Edelman Decl.,
2 Ex. D at 11-13.

3 Given that the parties are holding off on taking depositions pending resolution of this motion, all
4 declarations should be filed by August 4, 2006 (or earlier, if possible).

5
6
7 DATED:

7/31/06



RONALD M. WHYTE
United States District Judge

1 **Notice of this document has been electronically sent to:**

2 **Counsel for Plaintiff:**

3 Joseph Kouri joseph.kouri@sdma.com
4 Marc A. Koonin marc.koonin@sdma.com

5 **Counsel for Defendants:**

6 Michael N. Edelman michaeledelman@paulhastings.com
7 James Hughes jah@greenstamps.com

8 Counsel are responsible for distributing copies of this document to co-counsel that have not
9 registered for e-filing under the court's CM/ECF program.

10
11 **Dated:** 8/1/06

SPT
Chambers of Judge Whyte